

Date of Request: June 30, 2021

Requester: James Chelmowski

**FOIA and Privacy Act Request for the following:**

This request is pursuant to FOIA 5 USC 552 and Privacy Act 5 USC 552a for all EPA emails and attachments regarding James Chelmowski, me the requester from January 1, 2015 to the later of June 30, 2021 and the date of the actual search. EPA FOIA & Privacy Act response should include all possible certifications of the completeness of these searches in the response.

The EPA has documented as fact EPA internal emails exist and could be FOIA and/or Privacy Act responsive records in EPA Privacy Act Systems of records including EPA-9 FOIAonline, EPA-22 CMS, EPA-63 eDiscovery, EPA-64 My Workplace, Enterprise Content Management System (ECMS), etc.

Of course, any redacting must be both FOIA and Privacy Act exemptions not one or the other. All responsive records must be identified and disclosed even if the EPA believes the entire or portions of the responsive records meet BOTH FOIA and Privacy Act Exemptions.

This search MUST include all relevant Privacy Act System of Records that contain records regarding me.

The EPA has already confirmed my identity. The EPA Privacy Act letters to James Chelmowski for PA-0001-2017 from Brian Hope and two letters from Privacy Act Officer Judy Earle for PA-0003-2020 and PA-0004-2020. Also attached are some EPA emails processing Chelmowski 2017 Privacy Act Request proving the EPA has identified me in 2017 as the requester James Chelmowski.

The EPA stated as facts to the Department of Justice (DOJ) in the EPA FOIA Annual report with associated raw data regarding EPA FOIA request including EPA processed all first-party FOIA as both FOIA and Privacy Act requests for greater access to records like many filed by James Chelmowski:

g. FOIA Request - a FOIA request is generally a request to a federal agency for access to records concerning another person (i.e., a "third-party" request), or concerning an organization, or a particular topic of interest. FOIA requests also include requests made by requesters seeking records concerning themselves (i.e., "firstparty" requests) when those requesters are not subject to the Privacy Act, such as non-U.S. citizens. Moreover, because all first-party requesters should be afforded the benefit of both the access provisions of the FOIA as well as those of the Privacy Act, FOIA requests also include any first-party requests where an agency determines that it must search beyond its Privacy Act "systems of records" or where a Privacy Act exemption applies, and the agency looks to FOIA to afford the greatest possible access. All requests which require the agency to utilize the FOIA in responding to the requester are included in this Report. Additionally, a FOIA request includes records referred to the agency for processing and direct response to the requester. It does not, however, include records for which the agency has received a consultation from another agency. (Consultations are reported separately in Section XII of this Report.)

The EPA DOES NOT have AUTHORITY to collect search fees on Freedom of Information Act Request about the Request was illegal pursuant to Uniform Freedom of Information Act Fee Schedule and Guidelines, 52 Fed. Reg. 10012, 10014 (Mar. 27, 1987) (OMB Fee Guidelines)

"These FOIA fee guidelines rely on that authority to remind agencies that the fee schedule provided herein does not apply to individuals seeking access to their own records which are filed in Privacy Act systems of records. Similarly, the budgetary authorities cited mandate that funds agencies receive for providing FOIA services are to be deposited in the general revenues of the United States rather than individual agency accounts. OMB has made one change to this section and that is to add a reference to the Privacy Act of 1974."

“Section 8d. ‘All Other Requesters.’ OMB has revised this section to explain that the requests of record subjects asking for copies of records about themselves filed in agencies' systems of records must be processed under the Privacy Act's fee schedule”

“Moreover, requests from record subjects for records about themselves filed in agencies' systems of records will continue to be treated under the fee provisions of the Privacy Act of 1974 which permit fees only for reproduction.”

“Privacy Act 5 U.S.C. § 552a(f)(5) establish fees to be charged, if any, to any individual for making copies of his record, excluding the cost of any search for and review of the record.”